

ORDINANCE NO. 2016-062216-1

AN ORDINANCE ESTABLISHING A HISTORIC PRESERVATION COMMISSION TO SURVEY AND INVENTORY COMMUNITY HISTORIC RESOURCES, TO REVIEW PROPOSED NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES, TO REVIEW APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS, TO PROVIDE ADVICE AND INFORMATION TO TOWN OFFICIALS AND OTHER GOVERNMENTAL OFFICIALS AND TO SUPPORT ENFORCEMENT OF STATE HISTORIC PRESERVATION LAWS.

BE IT ORDAINED BY THE TOWN COUNCIL OF VIRGIN, UTAH COUNTY, STATE OF UTAH, AS FOLLOWS:

SECTION 1: (Authority: Utah Code Annotated §17A-3-13)

Purpose. The Town of Virgin recognizes that the historical heritage of the community is among its most valued and important assets. It is therefore the intent of Virgin to identify, preserve, protect and enhance historic buildings, structures, sites, objects, and districts lying within the city limits of Virgin, Utah.

SECTION 2: Historic Preservation Commission. A Historic Preservation Commission is hereby established by Virgin, Utah with the following provisions:

- A. The Commission shall consist of a minimum of five members with a demonstrated interest, competence, or knowledge in historic preservation, appointed by the Town Council for terms of not less than two years.
- B. To the extent available in the community, two Commission members shall be professionals, as defined by National Park Service regulations, from the disciplines of history, archaeology, planning, architecture or architectural history.
- C. The Commission shall meet at least twice each year and conduct business in accordance with the Open Public Meeting laws of Utah. This includes public notification of meeting place, time and agenda items.
- D. Written minutes of each Commission meeting shall be prepared and made available for public inspection.

SECTION 3: Commission Duties. The Historic Preservation Commission shall have the following duties:

- A. Survey and Inventory Community Historic Resources. The Historic Preservation Commission shall conduct or cause to be conducted a survey of the historic, architectural, and archaeological resources within the community. The survey shall be compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten years.
- B. Review Proposed Nominations to the National Register of Historic Places. The Historic Preservation Commission shall review and comment to the State Historic Preservation Officer on all proposed National Register nominations for properties within the boundaries of Virgin, Utah. When the Historic Preservation Commission considers a National Register nomination which is normally evaluated by professionals in a specific discipline and that discipline is not represented on the Commission, the Commission shall seek expertise in that area before rendering its decision.

C. Provide advice and information.

1. The Historic Preservation Commission shall act in an advisory role to other officials and departments of government regarding the identification and protection of local historic and archaeological resources.
2. The Historic Preservation Commission shall work toward the continuing education of citizens regarding historic preservation and community history.

D. Oversee/Assist in the maintenance and rehabilitation of city-owned historic buildings and sites.

E. Apply for and administer grants and other financial aid for historic preservation projects in the town.

F. Enforcement of State Historic Preservation Laws. The Commission shall support the enforcement of all state laws relating to historic preservation. These include, but are not limited to: U.C.A. §17A-3-1301 through 1306, "The Historic District Act;" U.C.A. §9-8-305, 307, and 308 regarding the protection of Utah antiquities; and U.C.A. §9-8-404 regarding notification of the State Historic Preservation Office of any known proposed action which will destroy or affect a site, building or object owned by the State of Utah and included on or eligible for the State or National Registers.

SECTION 4: Severability. The provisions of this ordinance are severable.

SECTION 5: Repealer. The provisions of all prior ordinances which are inconsistent or in conflict with this Ordinance are hereby repealed.

SECTION 6: Effective Date. This Ordinance shall take effect THIRTY (30) days after its passage or TWENTY (20) days after its publication, whichever is sooner.

SECTION 7: Virgin Historic Sites List. The Historic Preservation Commission may designate historic properties to the Virgin Historic Sites List as a means of providing recognition to and encouraging the preservation of historic properties in the community.

A. Criteria for Designating Properties to the Virgin Historic Sites List. Any district, building, structure, object or site may be designated to the Virgin Historic Sites List if it meets all the criteria outlined below:

1. It is located within the official boundaries of the town.
2. It is at least 50 years old.
3. a. It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which significantly detract from or obscure the original form and appearance of the house when viewed from the public way.

- b. If the property does not meet the integrity requirements outlined in 3.a., it may still qualify for designation if it meets one of the following requirements for exceptional significance:

- (1) It is directly associated with events of historic significance in the community.
- (2) It is closely associated with the lives of persons who were of historic importance to the community.
- (3) It exhibits significant methods of construction or materials that were used within the historic period.

- 4. It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys (June 1993 version or subsequent revisions) and copies of that documentation have been placed in the local and state historic preservation files.

B. Designation Procedures. Any person, group, or government agency may nominate a property for listing in the Virgin Historic Sites List. The nomination and listing procedures are as follows:

- 1. Completed Intensive Level Survey documentation for each nominated property must be submitted to the Historic Preservation Commission.
- 2. The commission will review and consider properly submitted nominations at its next scheduled meeting. The commission will notify the nominating party, either orally or in writing, one week prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting. The one-week notification may be waived at the nominating party's option in order to accommodate "last-minute" submittals.
- 3. The Historic Preservation Commission will review the documentation for completeness, accuracy and compliance with the "Criteria for Designating Historic Properties to the Virgin Historic Sites List" and will make its decision accordingly.

C. Results of Designation to the Historic Sites List.

- 1. Owners of officially designated historic sites may obtain a historic site certificate from the Historic Preservation Commission. The certificate contains the historic name of the property, the date of designation, and signatures of the mayor and the Historic Preservation Commission chairperson.
- 2. If a historic site is to be demolished or extensively altered, efforts will be made to document its physical appearance before that action takes place.
 - a. The Town will delay issuing a demolition permit for a maximum of thirty (30) days and will notify a member of the Historic Preservation Commission, which will take responsibility for the documentation.
 - b. Documentation will include, at minimum, exterior photographs (both black-and-white and color slides) of all elevations of the historic building. When

possible, both exterior and interior measurements of the building will be made in order to provide an accurate floor-plan drawing of the building.

- c. The demolition permit will be issued after thirty (30) days of the initial application whether or not the Commission has documented the building. The permit may be issued earlier if the Commission completes its documentation before the thirty-day deadline.
- d. The documentation will be kept in the Commission's historic site files, which are open to the public.

D. Removal of Properties from the Historic Sites List. Properties which, in the opinion of the Historic Preservation Commission, no longer meet the criteria for eligibility may be removed from the Virgin Historic Sites List after review and consideration by the commission.

SECTION 8: Virgin Historic Landmark Register. Significant historic properties may be designated to the Virgin Historic Landmark Register for the purposes of recognizing their significance and providing incentives and guidelines for their preservation.

A. Criteria for Designating Properties to the Virgin Historic Landmark Register. Any district, building, structure, object or site may be designated to the Virgin Historic Landmark Register if it meets the criteria outlined below:

- 1. It is located within the official boundaries of the city.
- 2. a. It is currently listed in the National Register of Historic Places and a copy of the approved National Register form has been placed in the local historic preservation files.
- b. A property not yet listed in the National Register must:
 - (1) Retain its historic integrity as defined in Section 4.A.3.a., and
 - (2) Meet at least one of the following National Register criteria:
 - (a) associated with events that have made a significant contribution to the broad patterns of our history; or
 - (b) associated with the lives of persons significant in our past; or
 - (c) embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 - (d) have yielded, or may be likely to yield, information important in prehistory or history (archeological sites, for example).
 - (3) It has been documented according to the Utah State Historic Preservation Office standards for Intensive Level Surveys (June 1993 version or subsequent revisions) or National Register standards and a copy of that documentation has been placed in the local historic preservation files.

3. Owner Approval

- a. Individual properties. The owner of the property must approve the action to designate his/her property to the Virgin Historic Landmark Register by submitting to the Commission a written statement to that effect.
- b. Historic districts. A majority (over 50 percent) of the property owners in a proposed historic district must be in favor of the designation or at least not opposed to it. Written objections from over 50 percent of the property owners will constitute lack of approval and will halt the designation process.

B. Designation Procedures.

1. Submittal to the Commission of complete Intensive Level Survey or National Register of Historic Places documentation shall initiate the review process.
2. The Commission shall place properly submitted nominations on the agenda for its next scheduled meeting and shall notify the nominating party and the property owner, either orally or in writing, fourteen (14) days prior to the meeting that the nomination will be considered. The fourteen-day notification period may be waived at the property owner's option. In the case of historic districts, notification of proposed nominations may be made by public notice placed in the local newspaper or posted in a public building.
3. The Commission shall review the documentation for completeness, accuracy, and compliance with the "Criteria for Designating Properties to the Virgin Historic Landmark Register" and may, by passage of an appropriate resolution, designate properties to the Virgin Historic Landmark Register.

C. Notification and Recording of Designation.

Following designation by the Commission, a notice of such shall be mailed to the owners of record together with a copy of this ordinance. In the case of historic district designation, notice of such may be placed in the local newspaper or in a public building rather than mailed to each owner of property in the district. The Commission shall record the Virgin Historic Landmark Register status designation with the County Recorder's Office.

D. Results of Designation to the Virgin Historic Landmark Register.

1. Properties designated to the Virgin Historic Landmark Register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation.
2. In the event of rehabilitation of the property, local building officials will consider waiving certain code requirements in accordance with Chapter 34 of the Uniform Building Code (1994 Edition), which deals with historic buildings, and the Uniform Code for Building Conservation, a special code for existing buildings.
3. Owners of Historic Landmarks may seek assistance from the Historic Preservation Commission in applying for grants or tax credits for rehabilitating their properties.

4. Proposed exterior work on Historic Landmarks is subject to the review and approval of the Historic Preservation Commission. The purpose of this review is to ensure the preservation of historic properties to the greatest degree possible. This review applies to individually designated Landmark properties or any property, contributing or non-contributing, located in a Landmark-designated historic district. This review applies only to exterior work which requires a building permit, sign permit, or demolition permit.
 - a. Applications for building, demolition, or sign permits pertaining to, shall be forwarded by the Building Inspection Department to the Historic Preservation Commission prior to their issuance.
 - b. A permit applicant, in order to obtain a permit from the Building Inspections Division, shall file a request for a Certificate of Appropriateness with the Commission on a form furnished by the Commission.
 - c. At its next scheduled meeting, the Commission shall review the application and proposed work for compliance with the "Standards for Rehabilitation," hereafter referred to as the "Standards," and any design guidelines adopted by the Commission and Town Council.
 - i. Applicants whose proposed projects comply with the provisions of this Title shall be issued a "Certificate of Historic Appropriateness" within ten (10) days, which authorizes the issuance of the appropriate permit.
 - ii. Applicants whose proposed projects are found to be in non-compliance with this Title shall be offered a negotiating period of sixty (60) days, during which time the Commission and applicant shall explore all options or an acceptable solution. These may include the feasibility of modifying the plans, using the historic landmark for alternative purposes, and reselling the property to another party. The Commission may extend the negotiating period an additional sixty (60) days for the purposes described above if deemed necessary to accommodate a potential solution.
 - iii. If no solution has been agreed upon at the conclusion of either the initial sixty-day (60) period or the full one hundred twenty-day (120) period the Certificate of Historic Appropriateness will be denied; consequently, the Building Official shall not issue any permits.
 - d. Claims of Economic Hardship. The Commission may approve a Certificate of Appropriateness for Rehabilitation or Demolition of a landmark property if the owner has presented substantial evidence demonstrating that unreasonable economic hardship will result from denial of the certificate of appropriateness.
 - i. Economic Hardship Criteria. In order to sustain a claim of unreasonable economic hardship, the Commission may require the owner to provide information to whether the property is capable of producing a reasonable return for the owner.
 - ii. Demonstration of economic hardship by the owner shall not be based on conditions resulting from willful or negligent acts by the owner, purchasing the property for substantially more than market value at the

time of purchase, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

- e. An applicant who has been denied any permit by the Building Official, based on the Commission's refusal to issue a Certificate of Historic Appropriateness, may appeal that decision to the City Council. The appeal must be made on or before thirty (30) days after the Commission's decision.

E. Removal of Properties from the Virgin Historic Landmark Register. Properties which, in the opinion of the Historic Preservation Commission, no longer meet the criteria for eligibility may be removed from the Virgin Historic Landmark Register after review and consideration by the Commission.

F. Enforcement. The provisions of this section are subject to the enforcement provisions established in the Uniform Building Code, Uniform Code for Building Conservation, or in the Uniform Housing Code as adopted by Virgin, Utah.

SECTION 9: Standards for Rehabilitation and Design Guidelines. The following standards and guidelines shall be used by the Historic Preservation Commission in determining the historic appropriateness of any application pertaining to Historic Landmark properties. This includes individually designated Landmark properties and both contributing and noncontributing properties in Landmark designated historic districts. In approving an application for a Certificate of Appropriateness, the Historic Preservation Commission shall find that the project substantially complies with all of the following standards and guidelines that pertain to the application and that the decision is in the best interest of the City.

A. Standards for Rehabilitation.

These standards are based on the "Secretary of the Interior's Standards for Rehabilitation," which serve as a national and state model for appropriate preservation treatment. The standards are as follows:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. [REDACTED] other details see "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (1990 or more recent version).]

B. General Design Guidelines.

1. Landmark Buildings and Contributing Buildings in Landmark-designated Historic Districts.
 - a. Avoid demolition of landmark and contributing buildings. They are a finite resource and cannot be replaced.
 - b. Vacant buildings should be weather- and vandal-proofed in order to minimize further deterioration and the threat to public safety.
 - c. Rehabilitation work, especially on the exterior and the principal facade, should preserve existing historic features or replace them if absolutely necessary with features and materials known to have existed on the building. Avoid "dressing up" buildings by adding features based on speculation.
 - d. Avoid moving buildings whenever possible, especially to create artificial groupings of historic buildings. If buildings must be moved, the new site should be similar to the original site, and the original setback and orientation of the building on the lot should be replicated.
2. Additions to Landmark and Contributing Buildings and Construction of New Buildings Within an Historic District.
 - a. New additions to landmark and contributing buildings should be subordinate to the original building, that is, lower in height, attached to the rear or set back along the side, and subordinate in scale and architectural detailing.

- b. Height, width, setback, roof shape, and the overall scale and massing of new buildings should be compatible with surrounding historic buildings and the overall streetscape.
- c. Materials on at least the primary facade(s) should be similar to original materials on facades of surrounding historic buildings (usually brick, stucco, stone, or wood siding, depending on the specific characteristics of the district).
- d. Architectural details (including wood or metal trim, porches, cornices, arches, window and door features, etc.) should not replicate historic features on surrounding historic buildings.
- e. Window and door openings should be similar in size and orientation (vertical or horizontal) to openings on historic buildings and should take up about the same percentage of the overall facade as those on surrounding historic buildings.
- f. Proportion of Principal Facades. The relationship of the width to the height of the principal elevations shall be in scale with surrounding structures and streetscape. Wider new buildings can be divided into segments that more closely resemble the facade widths of historic buildings.
- g. Roof Shape. The roof shape of a building shall be visually compatible with the surrounding structures and streetscape. Unusual roof shapes, pitches, and colors are discouraged.